

No. 14641

United States
Court of Appeals
for the Ninth Circuit

FLORENCE LILLIAN FLUMERFELT,
Appellant,
vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

Appeal from the United States District Court for the Western
District of Washington, Northern Division

FILED

MAR 21 1955

JAMES R. COTTER, CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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Form N-405—United States Department of Justice
Immigration and Naturalization Service.

Original (to be retained by Clerk of Court)

United States of America

PETITION FOR NATURALIZATION
(Under General Provisions of the Immigration
and Nationality Act)

No. 45554

To the Honorable the U. S. District Court of W.
Dist. of Wash., at Seattle, Wash.

This petition for naturalization, hereby made and
filed, respectfully shows:

- (1) My full, true, and correct name is Florence Lillian Flumerfelt aka Lynn Parry aka Lynn Flumerfelt.
- (2) My present place of residence is 605 Yesler Way, Seattle, King, Wash.
- (3) My occupation is Waitress.
- (4) I am 25 years old.
- (5) I was born on September 4, 1927, in Orrville, Ont., Canada.
- (6) My personal description is as follows: Sex Female, complexion Fair, color of eyes Brown, color of hair Brown, height 5 feet 5½ inches, weight 160 pounds, visible distinctive marks moles rt. of mouth and chin; country of which I am a citizen subject, or national Canada.

- (7) I am not married; * * *
- (8) I have no children; * * *

(9) My lawful admission for permanent residence in the United States was at Detroit, Michigan, under the name of Florence Lillian Flumerfelt on April 5, 1948, on the Detroit and Canada Tunnel.

(10) Since my lawful admission for permanent residence I have not been absent from the United States, for a period or periods of 6 months or longer, except as follows: * * * * *

(16) I have resided continuously in the United States of America for the term of 5 years at least immediately preceding the date of this petition, to wit, since April 5, 1948, and continuously in the State in which this petition is made for the term of 6 months at least immediately preceding the date of this petition, to wit, since April 1949; and during the past 5 years I have been physically present in the United States for at least one-half of that period.

(17) I have not heretofore made petition for naturalization.

* * * * *

(18) Attached hereto and made a part of this, my petition for naturalization, are the affidavits of at least two verifying witnesses required by law.

(19) Wherefore I, your petitioner for naturalization, pray that I may be admitted a citizen of the United States of America, and that my name be changed to Lynn Flumerfelt. I, aforesaid petitioner, do swear (affirm) that I know the contents of this petition for naturalization subscribed by me, and that the same are true to the best of my knowledge and belief, and that this petition is signed by me

with my full, true name: So Help Me God.

/s/ Florence Lillian Flumerfelt

Alien Registration No. A6 899 534.

Affidavit of Witnesses

Depositions: Two in Los Angeles from May 31, 1948 to Jan. 1949.

The following witnesses, each being severally, duly, and respectively sworn, depose and say:

(1) My name is Ruby Chin Lew, my occupation is Stenographer. I reside at 417 11th Ave., Seattle, Washington, and

(2) My name is Reba Parker, my occupation is Ice Cream Packer. I reside at 2309 26th S., Seattle, Washington.

I am a citizen of the United States of America; I have personally known and have been acquainted in the United States with the petitioner named in the petition for naturalization of which this affidavit is a part, since at least Lew—May, 1949; Parker—March 1949, to my personal knowledge the petitioner has resided, immediately preceding the date of filing this petition, in the United States continuously since the date last mentioned; that the petitioner has been physically present in the United States for at least....months of that period; and that he has resided at Seattle in the State of Washington continuously since at least May 1949. I have personal knowledge that the petitioner is and during all such periods has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the

good order and happiness of the United States, and in my opinion the petitioner is in every way qualified to be admitted a citizen of the United States. I have made in the affidavit to this petition for naturalization subscribed by me are true to the best of my knowledge and belief: So Help Me God.

/s/ Ruby Chin Lew

/s/ Reba Parker

(Signature of Witnesses)

When Oath Administered by Designated
Examiner

Subscribed and sworn to before me by above-named petitioner and witnesses in the respective forms of oath shown in said petition and affidavit at Seattle, Washington, this 1st day of June, A.D. 1953.

/s/ R. S. Sullivan,
Designated Examiner

I hereby certify that the foregoing petition for naturalization was by petitioner named herein filed in the office of the clerk of said court at Seattle, Washington, this 1st day of June, A.D. 1953.

[Seal]

Millard P. Thomas, Clerk

Y. Florence Ota, Deputy Clerk

* * * * *

Florence Lillian Flumerfelt

Lynn Flumerfelt

A true copy. Attest: Millard P. Thomas, Clerk;
signed by E. M. Groff, Deputy. * * * * *

Nov. 17, 1954—Ent. order denying petition for naturalization—failure to establish good moral character.

Form N-484-A—United States Department of Justice—Immigration and Naturalization Service.

Original

Order No. 2552

**ORDER OF COURT DENYING PETITION
FOR NATURALIZATION**

In the United States District Court of Western District of Washington at Seattle, Washington.

United States of America,
Western District of Washington—ss.

Upon consideration of the petitions for naturalization recommended to be denied, listed on List No. 2552 sheet(s) 1 to dated November 15, 1954, presented in open Court this 15th day of November, A.D., 1954, It Is Hereby Ordered that each of the said petitions, except those petitions listed below, be, and hereby is, denied.

It Is Further Ordered that the recommendation of the designated examiner is disapproved as to the petitions listed below, and each of said petitioners so listed having appeared in person in open Court this.....day of....., 19.., and each having taken the oath of allegiance required by the naturalization laws and regulations, It Is Hereby Ordered that each of them be, and hereby is, ad-

mitted to become a citizen of the United States of America.

It Is Further Ordered that prayers for change of name listed below be and hereby are granted, except as to petition(s) No.....

It Is Further Ordered that petitions listed below be continued for the reasons stated.

* * * * *

By the Court, this 17th day of November, 1954.

/s/ William J. Lindberg,
Judge.

[Endorsed]: Filed in U. S. District Court, Western District of Washington, Northern Division, and entered in Naturalization Docket Nov. 17, 1955.

Form N-486—United States Department of Justice
—Immigration and Naturalization Service.

Original

List No. 2552

NATURALIZATION PETITIONS RECOMMENDED TO BE DENIED

To the Honorable the United States District Court
of West. Dist. of Wash., sitting at Seattle,
Washington

R. S. Sullivan, duly designated under the Immigration and Nationality Act, to conduct preliminary examinations upon petitions for naturalization to the above-named Court and to make findings and recommendations thereon, has personally examined

under oath at a preliminary examination, the following ten (10) petitioners, the children named in whose behalf the petitions for naturalization were filed, and their required witnesses, has found for the reasons stated below, that such petitions should not be granted, and therefore recommends that such petitions be denied.

Petition No.—Name of Petitioners—Reason
for Denial:

1. 44248—Clara Dias: Want of prosecution, without prejudice.
2. 44521—Dorotio Ocation: Unable to read and write in the English language and not exempted from this requirement.
3. 44683—Christine Denos Carkonen: Want of prosecution, without prejudice.
4. 44893—Josette Yolande Yndl Reid: Want of prosecution, without prejudice.
5. 44905—Victoria Androff: Want of prosecution, without prejudice.
6. 45013—Saleem Georges: For lack of knowledge and understanding of the Constitution and our form of Government, without prejudice.
7. 45189—Leonards Rudolfs Bensons: Want of prosecution, without prejudice.
8. 45554—Florence Lillian Flumerfelt. For failure to establish good moral character for the period required by law.
9. 45874—Ferdinand Gaitz: Want of prosecution, without prejudice.

10. 47403—Morris William Jackson: For failure to establish good moral character for the period required by law.

Respectfully submitted November 15, 1954.

/s/ R. S. Sullivan, (Signature of officer in attendance at final hearing)

[Endorsed]: Filed November 17, 1954.

In the United States District Court for the Western District of Washington, Northern Division

Petition No. 45554—List No. 2552

FLORENCE LILLIAN FLUMERFELT,
Appellant,
vs.

UNITED STATES OF AMERICA,
Respondent.

NOTICE OF APPEAL

To United States of America and to Herbert Brownell Jr., Attorney General, and Charles P. Moriarty, U. S. Attorney:

You and Each of You will please take notice that Florence Lillian Flumerfelt hereby gives notice of Appeal to the United States Court of Appeals for the Ninth Circuit from that certain order made and entered on the 17th day of November, 1954, denying the application of Florence Lillian Flumer-

felt United States citizenship on the ground that she had not established good moral character and from each and every part thereof.

Dated this 13th day of December, 1954.

/s/ JOHN E. BELCHER,
Attorney for Appellant

[Endorsed]: Filed December 14, 1954.

[Title of District Court and Cause.]

APPELLANT'S POINTS ON APPEAL

1. The district court abused its discretion in following the recommendation of the examiner in holding that appellant had failed to establish good moral character.
2. The district court erred in denying appellant admission to citizenship.

/s/ JOHN E. BELCHER,
Attorney for Appellant

Acknowledgment of Service attached.

[Title of District Court and Cause.]

APPELLANT'S DESIGNATION OF RECORD ON APPEAL

Appellant hereby designates the following as the record on appeal herein:

1. Application of appellant for citizenship.

2. Recommendation of examiner denying application.
3. Transcript of record before examiner dated February 9, 1954.
4. Judgment denying application dated November 17, 1954.
5. Transcript of evidence November 15, 1954.

/s/ JOHN E. BELCHER,
Attorney for Appellant

Acknowledgment of Service attached.

[Endorsed]: Filed December 29, 1954.

EXHIBIT "A"

In the Case of Florence L. Flumerfelt.

Date: February 9, 1954. Place: Seattle, Washington. Language used: English. Examiner: Ray S. Sullivan and Fay L. Miller. Stenographer: Shirley Bartlein. Person present: Florence L. Flumerfelt.

Examiner Sullivan to Florence Flumerfelt:

Q. Do you solemnly swear that the statements you are about to make in the matter of your petition for naturalization will be the truth, the whole truth and nothing but the truth, so help you God?

A. I do.

Q. Please state your full name.

A. Florence Lillian Flumerfelt.

Q. Have you ever used any other name?

A. Lynn Flumerfelt and Lynn Perry.

Q. How does it happen you used the name Perry?

A. In Los Angeles I took up singing and the woman that taught me suggested that I use the name Perry from Perry Sound. I studied two months or so.

Q. Do you use the name of Perry at all?

A. No, sir.

Q. You were born in Canada?

A. That's right, sir.

Q. When did you come to the United States?

A. April in 1948.

Q. Are you single? A. Yes.

Q. Occupation? A. Waitress.

Q. Where are you employed?

A. The Canton Gardens.

Q. Is the Canton Gardens operated by Chinese?

A. Yes, sir.

Q. Who is the proprietor?

A. Mickey Louie and Frank Chin.

Q. How long have you worked there?

A. I have worked steady since July but work part time for my girl friend.

Q. Where did you work before that?

A. Young China Cafe on Summit North.

Q. Who operates this place?

A. I think it was a Locke fellow.

Q. Where did you work before that?

A. Columns, on University Way.

Q. Is that a restaurant? A. Yes.

Q. Who is the proprietor?

A. Tommy Chinn.

Q. Is he Chinese? A. Yes, sir.

Q. How long did you work there?

A. Only a couple months, three months at the most.

Q. Have you worked at Chinese restaurants during most of your employment here in Seattle?

A. Yes, sir.

Q. You live at 605 Yesler Way?

A. Yes, sir.

Q. How long have you lived there?

A. Since last May.

Q. Where did you live before that?

A. With Mrs. Groves on Belmont North.

Q. How long did you live there?

A. Close to a year and eight months or two years.

Q. Is this address at 605 Yesler Way a hotel?

A. Yes, sir.

Q. Who operates it? A. George Woon.

Q. Is he Chinese? A. I think so.

Examiner Sullivan: I believe Mr. Miller may want to ask some questions.

Investigator Miller to Florence Flumerfelt:

Q. How did you happen to move from 503 Belmont North to 605 Yesler Way?

A. I had been living with a girl friend at Mrs. Groves place and when she left I wasn't working steady and forty dollars is an awful lot for one person. I knew quite a few people at the hotel and they told me the rooms were nice.

Q. What is the name of the hotel?

A. Terrace View.

Q. What people did you know at the hotel?

A. Johnny Dong and James Wong.

Q. How long have you known Johnny Dong?

A. I knew him when working at the Kum Ming Club. The winter before I worked at Column's I worked at the Kum Ming.

Q. When did you first become acquainted with James Wong?

A. I met him when I worked at Columns. He was the one of the managers there.

Q. What does James Wong do now?

A. He is working at Marco Polo.

Q. Where is that?

A. On Fourth Avenue South.

Q. Can't you be more specific? Where is the Marco Polo Cafe?

A. It's out towards South Park on Fourth Avenue.

Q. What is James Wong's Chinese name?

A. Chung, I think it is.

Q. Wong Chung Chang, is that it?

A. I don't know how it is used. I am pretty sure it is Chung.

Q. Where does James Wong actually live?

A. Terrace View Hotel.

Q. What room? A. 208.

Q. What room do you occupy? A. 209.

Q. Are these rooms adjoining? A. Yes.

Q. Do you ever occupy or does James Wong occupy the same room with you? A. No, sir.

Q. Have you ever lived with James Wong as man and wife? A. No, sir.

Q. Never? A. No, sir.

Q. Are there any other white people living in the Terrace View Hotel?

A. There are a lot of white people living there.

Q. Can you name anyone?

A. The maid that is working there is one, but I don't associate with any of them.

Q. Are there any other girls living there?

A. There are some, but I don't know any of them by name.

Q. Do these girls live there or just come there?

A. I don't know. I see a lot of them come. I go to work at seven and five on Mondays, and see very few people. I know there is a blonde lady with a dog.

Q. Can you, for the record, offer any explanation as to why you, a white girl, have associated with the Chinese race since you came to the United States?

A. When I first came to Seattle, Reba, my witness, and I were both broke and the International League sent us looking for a job. I got a job at the Riceland Cafe. I met Ruby Chin, who was my witness, and met other people who were very wonderful to me. And it is through all my Chinese friends that I have gotten my job. I like them and I am well liked. If you have been good to them, there is no reason to say I don't want to see you.

Q. According to your application you have belonged to at least four clubs, two of which are

known to be Chinese drinking and bottle clubs. Therefore, you apparently are well acquainted in and around what is known as Seattle's Chinatown. Do you know what reputation the Terrace View Hotel enjoys in Chinatown?

A. Well, it is classed as a second rate hotel. But as far as hotels are concerned, you know yourself that one hotel is not held for good things or bad.

Q. From the information available to this Service, the Terrace View Hotel is a well known illicit house of prostitution and is very frequently served by "call girls". Are you aware of that reputation?

A. I had heard of things like that. I am telling you, if you are going to look for things like that, if you are that type of woman, men can tell it. I have never been molested up there.

Q. Are you willing to state under oath that you have never served as a "call girl" or prostitute?

A. I certainly am.

Examiner Sullivan: May I ask a question at this point:

Q. What kind of work did you do in Los Angeles? A. Domestic work.

Q. Is that all you did? A. Yes, sir.

Q. What was your reason for joining these so-called Liquor or Bottle Clubs?

A. I certainly enjoy dancing a lot and I went there for that.

Q. Aren't there any other dancing clubs?

A. People suggested I get cards for these clubs.

Q. Do you use intoxicating liquors?

A. I have a drink with anyone.

Q. Have you ever been intoxicated?

A. It all depends what people figure intoxication is. I have never been in a way that I don't know what people are saying to me.

Q. Well, have you ever been, in a one-syllable word, drunk?

A. No, I have never been staggering around.

Q. Have you ever been under the influence of intoxicating liquor?

A. No. I have always known what I was doing.

Q. How often do you frequent these liquor clubs?

A. I don't know if I was down there Christmas—Christmas Eve, I think it was.

Q. Have you been there since Christmas?

A. Not very often. When you work six days a week you don't go drinking very much.

Q. Why did you leave the YWCA?

A. When I came to the United States we went three nights to the YWCA and we found out that Don Hamilton would leave the girls with the bills from selling magazines. They fired Reba because she wasn't making enough money, and gave them a bad time.

Q. Have you ever gone back there for companionship? A. No, sir.

Q. You prefer to get that at the Liquor Clubs?

A. No, sir. I used to play tennis, but I can't do this now because I hurt my back when I was a little girl. I can't even dance to an excess now.

Investigator Miller to Florence Flumerfelt:

Q. It has been reported to this Service that you

and James Wong have, on occasion, put yourself forward as being man and wife. Is that true?

A. No, sir. I have been going out with Jim for a long, long time to shows, swimming, fishing, catching frogs, with my girl friend and her husband.

Q. Has your association with Mr. Wong always been platonic? A. Yes, sir.

Q. Do you know what I mean by that?

A. Yes.

Q. Have you ever had sexual relationship with Jimmy Wong?

A. Everybody is human, aren't they.

Q. Will you answer that question yes or no.

A. Yes, I have.

Examiner Sullivan to Florence Flumerfelt:

Q. Do you have any roommate in this place where you now stay? A. No, sir.

Q. How much room rent do you pay a month?

A. Twenty-five dollars.

Q. You have given as your last witnesses, Mr. and Mrs. Robert Cautero. Are they citizens of the United States? A. Yes, sir; I am sure they are.

Q. What is the occupation of Robert Cautero?

A. He is a jeweler, I think.

Q. What is your acquaintanceship with these people?

A. I bought a watch there and took their children out for walks.

Q. Do you see both of them there?

A. Yes, sir. They both go out separately because they can't leave the work at the jewelry shop. They

had a friend of theirs that wanted me to work for them. I don't know what happened, whether it was the stairs they didn't think I could climb, or what.

Q. You have previously given the names of two witnesses, Mr. and Mrs. Schwartz. What was your acquaintanceship with them?

A. As a domestic.

Q. For how long?

A. I worked in Canada for them before I got my papers. I started with them at the opening of the season in Canada up at their summer cottage.

Q. Are they Canadian?

A. No, they are American citizens but they have a cottage in Canada.

Q. What kind of business is he in?

A. I don't know now, but they had a furniture store. They were planning to get one in Los Angeles.

Q. Do you have anyone coming in to give a deposition for you? A. No, sir.

I certify that this a true and correct transcript of my shorthand notes.

/s/ Shirley Bartlein,
Stenographer.

[Endorsed]: Filed December 29, 1954.

[Title of District Court and Cause.]

STIPULATION

It is hereby stipulated between the parties hereto by their respective counsel that the following docu-

ments are a part of the record herein and may be transmitted to the Court of Appeals for the Ninth Circuit.

1. Transcript of record before examiner dated Feb. 9, 1954.
2. Recommendation of examiner.
3. Judgment denying application, dated Nov. 17, 1954.
4. Application of appellant for citizenship.
5. Order extending time for filing transcript of evidence.

Dated this 6th day of January, 1955.

/s/ JOHN E. BELCHER,
Attorney for Appellant
/s/ F. N. CUSHMAN,
Asst. U. S. Attorney for
Respondent

[Endorsed]: Filed January 6, 1955.

[Title of District Court and Cause.]

ORDER EXTENDING TIME FOR FILING TRANSCRIPT OF EVIDENCE

Upon the oral application of counsel for appellant, and good cause therefor being shown it is

Ordered that the time for filing the transcript of the evidence in the above entitled cause be and

the same is hereby extended thirty days from this date.

Done in open court this 6th day of January, 1955.

/s/ WILLIAM J. LINDBERG,
U. S. District Judge

Presented by:

/s/ JOHN E. BELCHER,
Attorney for Appellant.

Approved:

/s/ F. N. CUSHMAN,
Assistant United States Attorney.

[Endorsed]: Filed January 6, 1955.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

United States of America,
Western District of Washington—ss.

I, Millard P. Thomas, Clerk of the United States District Court for the Western District of Washington, do hereby certify that pursuant to the provisions of subdivision 1 of Rule 10, of the United States Court of Appeals for the Ninth Circuit, and Rule 75(o) of the Federal Rules of Civil Procedure, as amended and Designation and Stipulation of Counsel as filed herein, I am transmitting herewith the following original papers dealing with the action as the record on appeal herein from the Order Denying Petition for Citizenship entered November 17, 1954, to the United States Court of Appeals for the Ninth Circuit, to wit:

1. Petition for Citizenship No. 45554 filed June 1, 1953. (Certified copy.)
2. Order Denying Petition for Citizenship filed Nov. 17, 1954 (attached thereto Examiner's Recommendation that Petition be denied).
3. Notice of Appeal by Petitioner filed December 14, 1954.
4. Appellant's Points on Appeal filed Dec. 29, 1954.
5. Appellant's Designation of Record on Appeal (attached to which is Exhibit "A"—Department hearing).
6. Stipulation as to Record on Appeal filed Jan. 6, 1955.
7. Order Extending Time for Filing Transcript of Evidence filed Jan. 6, 1955.
8. Reporter's Transcript of Evidence of Proceedings held Nov. 15, 1954, filed Jan. 27, 1955.

I certify that the following is a true and correct statement of all expenses, costs, fees and charges incurred in my office for preparation of the record of appeal herein on behalf of appellant, to wit: Notice of Appeal \$5.00, and that this amount has been paid to me by the attorney for the appellant.

In Witness Whereof, I have hereunto set my hand and affixed the official seal of said District Court at Seattle, this 1st day of February, 1955.

[Seal] MILLARD P. THOMAS,
 Clerk
/s/ By TRUMAN EGGER,
 Chief Deputy

In the District Court of the United States, Western District of Washington, Northern Division

No. 45554

In re Petition of FLORENCE LILLIAN FLUMERFELT, Petitioner for Naturalization.

TRANSCRIPT OF PROCEEDINGS

had in the above-entitled and numbered cause had before the Honorable William J. Lindberg, a United States District Judge, at Seattle, Washington, on the 15th day of November, 1954.

Appearances: John E. Belcher, Suite 706 Jones Bldg., 1331 Third Ave., Seattle 1, Wash., appeared for and on behalf of the Petitioner; and Raymond S. Sullivan, Naturalization Examiner, The Immigration and Naturalization Service, 815 Airport Way, Seattle, Wash., appeared for and on behalf of the Department.

Whereupon, the following proceedings were had, to-wit: [1*]

The Court: Number 45554, Florence Lillian Flumerfelt.

Mr. Belcher?

Mr. Belcher: I have nothing further to say than that already contained in the memorandum which I have filed and served upon Mr.—on the Examiner.

I realize that citizenship is a privilege and not a right.

* Page numbers appearing at top of page of original Reporter's Transcript of Record.

I realize also, if your Honor please, that the question presented here is one involving—with some discretion for the Court—in my humble opinion, at least, one offense which does not constitute adultery.

Mr. Sullivan: You don't concede that there was just one act? We are going to show that there was more than one act of immorality.

Mr. Belcher: That is all you showed in the record.

Mr. Sullivan: I think you misunderstood the testimony. I think she should go on the stand and testify.

Mr. Belcher: I will be very glad to call her. [2]
Come forward.

The Court: The Government is opposing this petition upon the ground that during the statutory period she has failed to establish good moral character?

Mr. Sullivan: That is correct.

The Court: And you are resisting the recommendation; and, of course, it would be necessary to put on proof.

Mr. Sullivan: Should I question first and then if you have questions, you may?

Mr. Belcher: I will object to that kind of procedure. We are here on the testimony——

The Court: (Interposing) Mr. Sullivan, the Petitioner is seeking citizenship and if Mr. Belcher puts her on, he may proceed with the examination and then the Government may cross examine.

Mr. Sullivan: Very well, sir. [3]

FLORENCE LILLIAN FLUMERFELT

upon being called as a witness for and on behalf of the Petitioner, and upon being first duly sworn, testified as follows:

Direct Examination

Mr. Belcher: This is direct examination?

The Court: That is right.

Q. (By Mr. Belcher): State your name, please.

A. Florence Lillian Flumerfelt.

Q. And you are an applicant for citizenship?

A. Yes, sir.

Q. When did you come to the United States?

A. April, 1948.

Q. From where? A. Windsor, Ontario.

Q. Where were you born?

A. In Paris Island, Ontario.

Q. In the Dominion of Canada?

A. That is right.

Q. Have you been in the United States at all times since the date you were admitted?

A. I made one trip to B. C.

Q. How long? [4]

A. Just for dinner and right back.

Q. So that you have been in the United States consistently with one—with that one exception since the year 1948? A. That is right.

Q. And where have you lived in that period of time?

A. In Los Angeles, Detroit, and here in Seattle.

Q. And when did you come to Seattle?

A. I think it was '50.

(Testimony of Florence Lillian Flumerfelt.)

Q. 1950? A. Yes.

Q. When did you file your application for citizenship in the United States?

A. It was five years after 1948. It would be 1952, I think. No, '53.

Q. What has been your occupation since you have lived in the United States?

A. I was domestic help when I first came over here and waitress.

Q. And where have you worked as a waitress?

A. I worked at the Riceland Cafe.

The Court: Is that Seattle?

The Witness: Yes, sir. [5]

Q. (By Mr. Belcher): Riceland Cafe in Seattle; is that run by Japanese? A. No.

Q. Chinese? A. Chinese.

Q. Where else have you worked?

A. Jade Pagoda.

Q. And is that run by Chinese?

A. Yes.

Q. And where else? A. Young China.

Q. Is that also a Chinese restaurant?

A. Yes.

Q. Now, any other place?

Q. Yes, two others; three others now.

Q. And where was that?

A. Columns, on University Way, and Canton Gardens and Malstrom's. Columns and Canton are Chinese but Malstrom's is not.

Q. When you first came to Seattle did you have work?

(Testimony of Florence Lillian Flumerfelt.)

A. I was working with the International Readers' League, and it is a magazine crew and we were going from city to city and state to state. [6]

Q. How did you happen to find the job as a waitress in a Chinese restaurant?

A. I went down and I got my first job at the Old Armory down at the waterfront.

Q. And did you come to Seattle with somebody else?

A. I was traveling with this crew, and this—one of my witnesses and I at the time both quit the crew here in Seattle and stayed on in Seattle and she is still in Seattle also.

Q. And you appeared before Ray S. Sullivan and Fay L. Miller, Examiners for the Bureau of Naturalization, here in Seattle, on the 9th day of February, 1954, did you?

A. I don't know the exact date but I did appear.

Q. Do you recall having appeared before these two gentlemen? A. Yes.

Q. I don't think there is any dispute that that was the 9th of February, 1954, and were you sworn? As a witness?

Q. Yes, sir. No, not as a witness.

Q. And did you testify in your own behalf in that hearing? [7] A. Yes, sir.

Q. And were you, or were you not, interrogated by Mr. Ray S. Sullivan, the gentleman seated at the table here? A. Yes, sir.

Q. And also by Fay L. Miller?

A. Yes, sir.

(Testimony of Florence Lillian Flumerfelt.)

Q. And did you at that time make a full and complete disclosure of your conduct?

A. I did, sir.

Q. Since you have been in the City of Seattle?

A. Yes.

Q. You did admit upon interrogation by Mr. Miller that you had had sexual relations on one occasion with a Chinese? A. Yes.

Q. In Seattle? A. Yes.

Q. Who was that Chinese?

A. James Wong.

Q. And where did you meet him?

A. He was working at one of the places I was working at.

Q. What were the circumstances under which [8] you had those relations with this Chinese?

A. Well, as I had said before, I had been quite ill, and I had just found out the year or so before that my back had been broken when I was a child and my legs and arms were paralyzed on me and it was during one of these times—you know how you get—well, when you start bawling and people try to, I don't know, comfort you one way or another and before you know it something happens. You know.

Q. And where did this happen?

A. I am sorry, it happened in the car.

Q. You were interrogated quite fully by both of these examiners as to whether or not you had practiced prostitution in the State of Washington since you came here? A. Yes.

(Testimony of Florence Lillian Flumerfelt.)

Q. Some question was raised as to the respectability of the hotel in which you were living and is it not true that by innuendo these examiners attempted to establish this as a house of ill repute?

Mr. Sullivan: I object to his leading questions. He is still on direct examination.

The Court: I think the question stated is objectionable. [9]

Q. (By Mr. Belcher): (Continuing) I will ask you whether you have at any time since you came to the United States of America, and since you have filed your application for citizenship—whether or not you have practiced prostitution?

A. No.

Q. I will ask you if you had sexual relations with any other person, either for pleasure or for hire, on any other occasion? A. No.

Q. Where do you live now, Miss Flumerfelt?

A. Belmont North.

Q. And where were you living at the time that this act took place?

A. At Belmont North.

Q. And what was the name of the place in which you had been—what was the name of the place on Belmont Avenue?

A. Well, it is a rooming house.

Q. It is a rooming house? A. Yes.

Q. Had you previously lived at another address?

A. Yes. [10]

Q. Where was that?

(Testimony of Florence Lillian Flumerfelt.)

A. Up on University Way. It was also a rooming house.

Q. Are you addicted to the excessive use of intoxicating liquors? A. No.

Q. Have you ever been in a brush with the law force?

A. I have never been in a brush with the law under any circumstances except this.

Q. Now, how long had you known this Chinese gentleman before this act that you spoke of took place?

A. I think it was just about a year.

Q. About a year? A. Yes.

Q. Is this Chinese gentleman, whose name is Wong— A. (Interposing) Yes.

Q. (Continuing) —an American citizen?

A. Yes.

Q. So far as you know does he have any criminal record? A. Not that I know of.

Q. You are not married? [11]

A. No, I am not.

Q. Did you know at the time this infraction took place whether or not the gentleman was married?

A. No, I didn't. I didn't find that out until quite a while afterwards.

Q. And you say that this is the only occasion?

A. Yes.

Q. Upon which this indiscretion took place?

A. Yes, sir.

Mr. Belcher: You may inquire.

(Testimony of Florence Lillian Flumerfelt.)

The Court: The Court will take about a ten minute recess.

(Whereupon, at 3:17 o'clock p.m., a recess was had in the within-entitled and numbered cause until 3:29 o'clock p.m., November 15, 1954, at which time, Counsel heretofore noted being present, the following proceedings were had, to-wit:)

Mr. Belcher: With the Court's permission, may I use the lectern while he is examining the witness?

The Court: You want to use the lectern?

Mr. Belcher: Yes, while Counsel is examining the witness. [12]

The Court: If it doesn't interfere with Mr. Sullivan, it is all right.

Mr. Belcher: That is what I mean.

(Whereupon, the Court conferred with other counsel relative to matters pending and the following proceedings were then had, to-wit:)

The Court: You have completed your direct examination, Mr. Belcher?

Mr. Belcher: Yes.

The Court: You may proceed.

Cross Examination

Q. (By Mr. Sullivan): Miss Flumerfelt, what is your present occupation?

A. I am—I manage sundries at nights in Malmstrom's Drug Store; sundries on Bellevue and Pine.

Q. How long have you been employed there?

A. Since July.

(Testimony of Florence Lillian Flumerfelt.)

Q. Where are you living?

A. 503 Bellmont North.

Q. How long have you lived there?

A. It is the same lady I have lived with some years back.

Q. When? [13]

A. It is the same lady I lived with before.

Q. Since when, preceding this date?

A. May or June.

Q. And where did you live before that?

A. 605 Yesler Way.

Q. How long were you at that place?

A. A year.

Q. That is known as the Terrace View Hotel?

A. That is right.

The Court: What year was that?

The Witness: 1953.

The Court: That was for a year, in 1953 to 1954?

The Witness: That is right, sir.

Q. (By Mr. Sullivan): And what was the number of your room there? A. 218, or 208.

Q. Who occupied room 209?

A. Mr. James Wong.

Q. And how long had he occupied that room?

A. A year or so.

Q. During all the time you were there?

A. I think so.

Q. You said you were there about a year? [14]

A. Yes.

Q. And was that an adjoining room to your room? A. It had a door between.

(Testimony of Florence Lillian Flumerfelt.)

Q. But it adjoined and there was a door between?

A. There was a door between, yes.

Q. Was there a bolt on the door?

A. There was a lock.

Q. On which side? A. On my side.

Q. On your side? A. Yes.

Q. Not on his side?

A. I don't know. I think there was a bolt on his side.

Q. And had you been going with this James Wong during that period, during that year?

A. Yes, we were good friends.

Q. Now, you stated that there was only one occasion when you had any illicit relations with this James Wong, is that right? A. Yes, sir.

Q. And when was that?

A. Around November, two years ago; in [15] November, two years ago.

Q. Was that while you were living at this room 208? A. No.

Q. Did you have any illicit relations with him while you and he were occupying those adjoining rooms? A. No, sir.

Q. Did he ever go into your room?

A. He knocked on the door and called me.

Q. Did he come in? A. Not by himself.

Q. He never came in alone? A. No, sir.

Q. Did you ever go into his room?

A. No, sir.

Q. You never did?

(Testimony of Florence Lillian Flumerfelt.)

A. As a matter of fact, the only time we would get a chance to see each one would be when the maid would be making up the rooms because I worked one shift and he would work another.

Q. He is a married man, is he?

A. Yes, sir.

Q. And did you know that he was married?

A. I only found that out just a couple of [16] years ago.

Q. A couple of years ago? A. Yes, sir.

Q. And was that before you had this illicit relationship with him? A. No, sir.

Q. How long had you known him when this act occurred? A. About a year.

Q. About a year? A. Yes.

Q. You have known him about three years then, have you? A. Yes.

Q. And you lived in this hotel in adjoining rooms for about a year, is that right?

A. Yes, sir.

Q. Now, when you were questioned in our office you were asked this question:

"Have you ever had sexual relations with Jimmy Wong?"

And you answered:

"Everybody is human, aren't they?"

Is that correct?

A. Yes, sir. [17]

Q. And you were asked this question:

"Will you answer that question 'yes' or 'no'?"

And you answered then:

(Testimony of Florence Lillian Flumerfelt.)

"Yes, I have."

Is that correct?

A. That is right.

Mr. Belcher: What page is that, Mr. Sullivan?

The Court: Mr. Belcher is asking you the page.

Mr. Sullivan: The page?

Mr. Belcher: Yes, what page is that in the examination?

Mr. Sullivan: At the bottom of page five.

Q. (By Mr. Sullivan): Do you belong to any of what they call so-called bottle clubs?

A. Yes, sir. I used to work for one.

Q. And how many of these clubs have you belonged to?

A. I did have cards for three.

Q. How many?

A. I did have cards for three.

Q. You had cards for three? [18]

A. Yes.

Q. And over how long a period were you a member of these bottle clubs?

A. I worked at the King Ming Club and I had my card from there.

Q. What is the nature of these bottle clubs?

A. You take your own bottle and go in with a group of people and go in and dance.

Q. You take your own liquor? A. Yes.

Q. And did you do that? A. Yes.

Q. Did you know that this Terrace View Hotel had a reputation of being a call house, what they call a call house, for prostitution?

(Testimony of Florence Lillian Flumerfelt.)

A. You had told me that. That is the only time that I had knew about it.

Q. What?

A. You told me that and that is the only time that I knew about it; and what you told my friends.

Q. Well, you were asked this question on that occasion:

A. Yes, I know the question.

Q. "From the information available to this Service [19] the Terrace View Hotel is a well-known illicit house of prostitution and is frequently served by call girls. Are you aware of that reputation?"

And you answered:

"Yes, I had heard of things like that."

A. Yes; you went to some of my friends and they came up and asked me if it were true, when you were investigating me.

Mr. Sullivan: I believe that will be all, your Honor.

Redirect Examination

Q. (By Mr. Belcher): How long after you heard that this Terrace View Hotel had that reputation did you move therefrom?

A. It was during the time that Mr. Sullivan and Mr. Miller was investigating me, and I left there.

Q. Is that the only time that you heard it had the reputation of being a house of prostitution, or call girl house? A. Yes, sir.

Q. And you have since moved from that location? A. Yes, sir. [20]

(Testimony of Florence Lillian Flumerfelt.)

Mr. Belcher: I think that is all.

(Witness excused.)

Mr. Sullivan: I think we will call Mr. Miller.

Will you take the stand? [21]

FAY L. MILLER

upon being called as a witness for and on behalf of the Department, and upon being first duly sworn, testified as follows:

Direct Examination

Q. (By Mr. Sullivan): State your name and occupation?

A. My name is Fay L. Miller and I am an investigator for the United States Immigration Service.

Q. As such did you conduct an investigation in the case of the petitioner here, Florence Lillian Flumerfelt? A. I did, sir.

Q. Did you call up the Terrace View Hotel where she had been rooming at one time?

A. Yes, on two occasions.

Q. And about when was it that you called her, do you recall?

A. Well, one occasion was shortly before her appearance at the office, and one was that same day.

Q. And that was in February, 1953, the day that the testimony was taken?

A. The day of the testimony, I think, was in [22] February of this year.

(Testimony of Fay L. Miller.)

Q. About what time did you go up there?

The Court: Just a moment. Did you finish the answer?

A. (Continuing) February, 1954.

Q. (By Mr. Sullivan): Yes, February 9, 1954.

A. That would be approximately correct.

Mr. Belcher: February 9th what?

Mr. Sullivan: 1954.

Q. (By Mr. Sullivan): About what time of the day did you go up to this hotel?

A. Well, to the best of my recollection it is that Miss Flumerfelt was in the office about approximately 11:00 o'clock, or 10:30 or 11:00 o'clock in the morning and immediately following the interrogation of Miss Flumerfelt at the office I proceeded to the Terrace View Hotel, so that it would be approximately 11:00 o'clock in the morning.

Q. Did you have another investigator with you?

A. Yes, sir.

Q. What was his name?

A. Harold Halverson. [23]

Q. Did you go to the room occupied by the petitioner there?

A. Yes. We went to the room occupied by James Wong.

Q. I see. Were these rooms adjoining; that is, the petitioner's and James Wong's rooms adjoining? A. They were.

Q. Was there a door between the two?

A. Yes, sir.

Q. Just describe to the Court what the condi-

(Testimony of Fay L. Miller.)

tion of the door was as to any lock or bolt, or anything of that kind.

A. Well, we rapped on the door of James Wong, which, I believe, was room 208 or 209. I have forgotten the difference in numbers. It took him a few minutes to come to the door. He came to the door in his bathrobe and we walked in and told him who we were and showed him our credentials and talked with him.

He said he had just gotten up and that he had to go to work at 11:30.

The bed which was in his room very obviously had not been slept in. During the course of our talking to Mr. Wong I noticed this door that [24] seemed to lead out of his room and on the side next to Mr. Wong's room was a bolt, just a sliding bolt, on this door. I reached over and slid the bolt and the door immediately opened into the petitioner's room. There was no lock from the other side. At least, it was not locked.

Q. Did you open the door?

A. I opened the door, yes.

Q. And did you question Mr. Wong at that time? A. Yes, we did.

Q. Just in substance, what were your questions?

A. Well, principally, we were interested in who he was and what his immigration status was and whether he was a married man or not, and he proceeded to deny that he had occupied any other room than his own but it was so obvious he had just gotten up.

(Testimony of Fay L. Miller.)

Mr. Belcher: That is objected to.

Mr. Sullivan: We will strike that.

Q. (By Mr. Sullivan): Did you question him about Miss Flumerfelt?

A. We did not on that occasion because he [25] agreed to appear at the office that afternoon and give a sworn statement, and he did not appear except with an attorney and they refused to give a statement.

Q. Is he a citizen of the United States?

A. He is.

Q. Naturalized?

A. I believe he was born abroad of American parents, if my recollection is right.

Q. Do you know what the reputation of this hotel known as the Terrace View Hotel is?

A. Well—

Q. (Interposing) Just say "yes" or "no".

A. Yes.

Q. Then tell the Court what the reputation of the hotel is.

A. Well, it has the reputation of being a call house.

Mr. Belcher: Just a moment. Where did you get this information?

The Court: Just a moment. Do you wish to examine on voir dire?

Mr. Belcher: I do, yes, your Honor.

The Court: This has to do with your knowledge. You stated you knew the reputation and [26] Mr.

(Testimony of Fay L. Miller.)

Belcher is examining you as to source of that knowledge.

Mr. Belcher: Where did you get that knowledge from?

The Witness: From two different sources.

Mr. Belcher: Hearsay, wasn't it, pure and simple? You don't know of your own knowledge, do you?

The Witness: I do not know of my own knowledge.

Mr. Belcher: That is all.

Mr. Sullivan: Can he testify from what source he got it?

The Court: You can continue on voir dire.

Mr. Sullivan: All right.

Q. (By Mr. Sullivan): From what source did you get this information?

A. One was from a dispatcher of the taxi-cab company who stated that they have on many occasions dispatched taxis with girls to the Terrace View Apartment Hotel; and one was from a Chinese in Chinatown who has acted as an informer to this [27] Service whose name I can not disclose.

Mr. Sullivan: I believe that is all, your Honor.

Cross Examination

Q. (By Mr. Belcher): Did you know, Mr. Miller, that tried in this very court room was a call girl for practicing prostitution only three years ago where witnesses from the Olympic Hotel, who were bell hops, were panderers for this woman who was

(Testimony of Fay L. Miller.)

a call girl and practiced prostitution in the Olympic Hotel?

Would you say that that would brand the Olympic Hotel as a place where call girls held a rendezvous?

A. Do I have to answer that? It is a matter of judgment.

The Court: The Court will sustain an objection to the question.

Q. (By Mr. Belcher): You personally have no knowledge, personal knowledge, of whether or not there have been call girls operating out of the Terrace Hotel? A. No, I do not.

Q. All that you know about it is what somebody else told you? [28]

A. That is right, sir.

Q. Yes; now, did you say anything to Miss Flumerfelt about going up there to this room to examine it? A. No.

Q. This occurred after you had conducted this examination of her down in your building on Airport way? didn't it? A. That is right.

Q. Did you inform her—why didn't you ask her to go with you, to go up and make this examination? A. Why didn't I ask her?

Q. Yes, why didn't you ask her? You wanted to be fair about it, didn't you?

A. I saw no point in asking her.

Q. You wanted to be perfectly fair about it, didn't you? A. Sure, yes, sir.

(Testimony of Fay L. Miller.)

Q. And it is your opinion that that is the act of a fair man seeking the truth? A. Yes.

Mr. Sullivan: I object to that line.

The Court: The Court will sustain the objection. [29]

Mr. Belcher: That is all.

Mr. Sullivan: One more question.

Redirect Examination

Q. (By Mr. Sullivan): When you went up to this hotel were you inspecting her room or James Wong's room?

A. James Wong's room. We never set foot inside her room.

Mr. Sullivan: That is all.

Recross Examination

Q. (By Mr. Belcher): Now, then, Mr. Miller, you are familiar with the rules of your own Department, are you?

A. I believe I am, sir.

Q. And the Decisions of the Commissioner of that Department?

A. I would say fairly so.

Mr. Sullivan: I object to this.

The Court: What is the purpose of this, Mr. Belcher?

Mr. Belcher: To show the policy of the Department.

The Court: If you want to make him your own witness, but this is cross examination.

(Testimony of Fay L. Miller.)

Mr. Sullivan: I object, your Honor. [30]

The Court: Objection sustained.

Mr. Belcher: Very well. I will make him my own witness.

The Court: You call him, Mr. Belcher, now as your own witness?

Mr. Belcher: Yes.

Direct Examination

Q. (By Mr. Belcher): Are you familiar with the Decisions of your own Department, the rulings of your own Department, with reference to situations of this type?

A. Reasonably so. Put it that way.

Q. Yes.

A. I am not in a policy position.

Q. I will hand you—

Mr. Sullivan: I think it is argumentative.

The Court: Would you advise what the purpose of this testimony is?

Mr. Belcher: The purpose is to show the policy of the Department which is within the personal knowledge of this witness.

The Court: What policy?

Mr. Belcher: The policy with respect [31] to very situations of this nature.

The Court: In what respect? If you will explain, if it isn't something you have to keep secret; if you will explain it so that I get some idea what you are attempting to do.

Mr. Belcher: It is a ruling made by the Im-

(Testimony of Fay L. Miller.)

migration Court of Appeals which sets the policy of that Department.

The Court: Tell me what it is. Let me know what you are getting to and I assume if there is a policy involved that has a bearing the Court should be advised of it, should it not?

Mr. Belcher: Yes. And it sets the policy of the Department, if your Honor please, on admissions of an alien to the United States to visit the fiance, a sailor, in the United States Navy, that they had engaged in sexual relations in Canada and she admitted that she intended to continue those relations in this country and she was excluded by the Board of Inquiry and in considering the case the majority of the Board of Immigration Appeals found the alien admissible as a visitor.

Mr. Sullivan: That is an entirely different case. That is deportation. This is naturalization. [32]

Mr. Belcher: It is the same.

The Court: The Court will sustain objection to the question.

Mr. Sullivan: I object, your Honor.

Mr. Belcher: That is all.

Mr. Sullivan: That is all, your Honor.

(Witness excused.)

Mr. Sullivan: That is all.

The Court: It seems to me in this case, Mr. Belcher, there is sufficient question raised that the burden is with the Petitioner.

The Court would not grant the application on the showing made now.

Mr. Belcher: I beg pardon?

The Court: The Court would not grant petition for citizenship on this showing, unless there is a more affirmative showing of good moral character. I think a question has been raised and the Court at this time would not grant the petition.

Mr. Belcher: Very well, your Honor.

The Court: The Petition is denied without prejudice to being renewed on a subsequent date.

(Whereupon, hearing in the within-entitled cause was concluded.) [33]

[Endorsed]: Filed January 27, 1955.

[Endorsed]: No. 14641. United States Court of Appeals for the Ninth Circuit. Florence Lillian Flumerfelt, Appellant, vs. United States of America, Appellee. Transcript of Record. Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed: February 2, 1955.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for
the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit

No. 14641

FLORENCE LILLIAN FLUMERFELT,
Appellant,
vs.

UNITED STATES OF AMERICA,
Appellee.

**APPELLANT'S STATEMENT OF POINTS
AND DESIGNATION**

Appellant hereby adopts in this court its points
on appeal and designation of the record filed in the
District Court.

/s/ JOHN E. BELCHER,
Attorney for Appellant

Acknowledgment of Service attached.

[Endorsed]: Filed February 9, 1955. Paul P.
O'Brien, Clerk.